

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**SPECIAL CIVIL APPLICATION No. 3564 of 1991****For Approval and Signature:****HONOURABLE MR.JUSTICE M.R. SHAH**

- =====
- Whether Reporters of Local Papers
1 may be allowed to see the
judgment ?
- 2 To be referred to the Reporter or
not ?
- 3 Whether their Lordships wish to see
the fair copy of the judgment ?
- Whether this case involves a
substantial question of law as to
4 the interpretation of the
constitution of India, 1950 or any
order made thereunder ?
- 5 Whether it is to be circulated to
the civil judge ?
- =====

SHREE KRISHAN VIJAY SAW MILL - Petitioner(s)**Versus****STATE OF GUJ & 3 - Respondent(s)**

=====

Appearance :

MR MANISH R BHATT for Petitioner(s) : 1,
GOVERNMENT PLEADER for Respondent(s) : 1 - 3.
MR KB PUJARA for Respondent(s) : 4,

=====

CORAM : HONOURABLE MR.JUSTICE M.R. SHAH**Date : 23/11/2005**

ORAL JUDGMENT

1. In this petition under Article 226 of the Constitution of India, the petitioner has prayed for appropriate writ, order and/or directions, declaring the Amending Ordinance in the Amending Act i.e. Gujarat Ordinance No.3 of 1998 as well as the provisions of the Bombay Electricity Duty (Gujarat Amendment) Act, 1988 (Gujarat Act No.7 of 1988) as ultra vires, unconstitutional and void.

2. This petition was ordered to be heard along with Special Civil Application No.5924 of 1988 and other cognate matters being Special Civil Application Nos.3561 of 1991, 5924 to 5930 of 1988.

3. It is pointed out by the learned advocates appearing on behalf of the parties that

so far as the aforesaid cognate matters are concerned, the same are allowed by the Division Bench of this Court vide judgement and order dtd.20/6/2000 (Coram : Mr.DM Dharmadhikari, CJ , and Mr.B.C. Patel, J.) declaring sec.2(a) and sec.3 of the Bombay Electricity Duty (Gujarat Amendment) Act, 1988 (Gujarat Act No.7 of 1988) as unconstitutional, ultra vires, discriminatory as well as violative of Article 14 of the Constitution of India.

4. In view of the above and for the reasons recorded by the Division Bench of this Court in the judgement and order dtd.20/6/2000 in Special Civil Application No.5723 of 1988 and other cognate matters, the present petition is allowed.

5. The respondents are directed to pass consequential orders, if any, which they are required to pass on declaring the aforesaid provisions as unconstitutional and ultra vires.

6. Rule is made absolute to the aforesaid extent. However, there will be no order as to costs.

(M.R. SHAH, J.)

rafik